



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/038,440

01/03/2002

Cary Fitzgerald

2705-185

6957

20575

7590

10/05/2005

MARGER JOHNSON & MCCOLLOM, P.C.  
210 SW MORRISON STREET, SUITE 400  
PORTLAND, OR 97204

EXAMINER

YANG, LINA

ART UNIT

PAPER NUMBER

2665

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/038,440	<b>Applicant(s)</b> FITZGERALD, CARY	
	<b>Examiner</b> Lina Yang	<b>Art Unit</b> 2665	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 January 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 2, 6, 7, 11, 15, 16, 20, 24, 25, 29, 33 and 34 objected to because of the following informalities.

Please spell out "VAD" in claims 2, 6, 11, 15, 20, 24, 29 and 33; and "SID" in claims 7, 16, 25 and 34.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-36, are rejected under 35 U.S.C. 103(a) as being unpatentable over by Posthuma(U. S. Patent No. 6,694,012 B1) in view of Dorenbosch (U. S. Patent Application No. 20020119795 A1).

Regarding claims 1, 10, 19 and 28, Posthuma teaches a device comprising:

a network interface for coupling to a network (element 70 in fig. 1, 70 has to have a network interface to connect to the network through connection 71); and

a processor (element 74 in fig. 1) coupled with the network interface, in which the processor is adapted to (fig. 1 and col. 2 lines 34-59; fig. 2 and corresponding description on col. 3 lines 20-49)

establish a connection (200);

place the connection on hold (202);

determine whether there is return speech from the connection that has been placed on hold (204); and

if so, withhold transmitting on-hold music/sound through the connection (214).

Posthuma differs from the claimed invention in that Posthuma does not specifically teach that the connection is a VoIP connection. However, the VoIP telephony is well to be used now. For example, Dorenbosch teaches voice conferencing using voice over IP (VoIP). Therefore, it would have been obvious for one of ordinary skill in the art at the time when the invention was made to include using voice over IP (VoIP), as taught by Dorenbosch in the assembly of Posthuma in order to facilitate the calls made over IP network, such as the convenient Internet.

Regarding claims 2, 11, 20 and 29, Posthuma further teaches that determining whether there is return speech from the connection that has been placed on hold, is performed by interpreting a VAD ON/OFF event (76 and/or 81 in fig. 1 col. 1 lines 31-34 and col. 2 lines 51-52).

Regarding claims 3, 12, 21 and 30, Posthuma further teaches determining is performed by: monitoring the voice path for return packets (col. 2 lines 51-58); and analyzing to determine whether the return packets encode speech (col. 2 lines 51-58).

Regarding claims 4, 13, 22 and 31, Posthuma further teaches that analyzing is for speech energy that corresponds to speech sustained for a predetermined time minimum (300 and/or 302 in fig. 3; fig. 4; col.4 lines 10-33).

Regarding claims 5, 14, 23 and 32, Posthuma further teaches that the processor is further adapted to: silence-monitor to determine whether prior return speech has discontinued; and if so, transmit on-hold music/sound through the connection (col. 4 lines 25-33).

Regarding claims 6, 15, 24 and 33, Posthuma further teaches that the silence-monitoring is performed by interpreting a VAD ON/OFF event (col. 4 lines 25-33).

Regarding claims 7, 16, 25 and 34, Dorenbosch further teaches that the silence-monitoring is performed by interpreting a received SID packet ([0024]).

Regarding claims 8, 17, 26 and 35, Dorenbosch further teaches that the VoIP connection is over a network voice path, and the silence-monitoring is performed by:

Art Unit: 2665

monitoring the voice path for return packets, and analyzing to determine whether the return packets encode silence ([0024]).

Regarding claims 9, 18, 27 and 36, Posthuma further teaches that analyzing is for speech energy that corresponds to silence sustained for a predetermined time minimum (300 and/or 302 in fig. 3; fig. 4; col.4 lines 10-33).

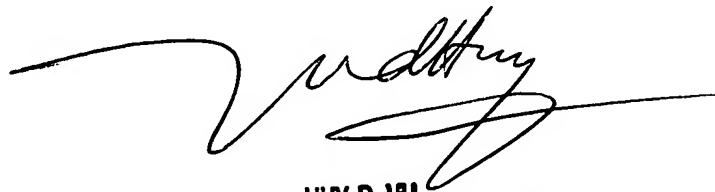
***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lina Yang whose telephone number is (571)272-3151. The examiner can normally be reached Monday through Thursday between 8:00 a.m. and 7:00 p.m. eastern standard time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 517-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LY

A handwritten signature in black ink, appearing to read 'Huy D. Vu', with a long horizontal flourish extending to the right.

**HUY D. VU**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**